



Written by [Steven Neill](#) on November 8, 2020

Alito Orders Late PA Ballots To Be Counted Separately

"We're in a situation where we have put together, and you guys did it for our administration — President Obama's administration before this. We have put together, I think, the most extensive and inclusive voter fraud organization in the history of American politics," [Joe Biden](#) claimed in what may have been a Freudian slip.

Or, perhaps, Biden spoke the truth.

[Massive](#) does not even come close to describe the amount of voter [fraud](#) likely perpetrated by the [Democratic](#) Party in the 2020 election. From [pre-selected Democratic Party box ballots](#) to post-dated ballot envelopes and refusing to election observers watch ballot-counting, there is no end to the scheming by the Democrats.

The looming legal battle over this election heated up on Friday when Supreme Court Justice Samuel Alito agreed to the Republican petition to ensure Pennsylvania county election officials were segregating mail-in ballots delivered after Election Day.

[Alito](#), the justice responsible for the state, [received](#) and approved part of the petition on Friday, ordering the county officials to comply with state guidelines to keep the late ballots separate. However, Alito did not stop the election officials from counting the votes, as the Republicans had requested.

Alito's order [read](#):

All county boards of election are hereby **ordered, pending further order of the Court, to comply** with the following guidance provided by the Secretary of the Commonwealth on October 28 and November 1, namely,

- that **all ballots received by mail after 8:00 p.m. on November 3 be segregated** and kept "in a secure, safe and sealed container separate from other voted ballots," and
- that **all such ballots, if counted, be counted separately.**

Until today, this Court was not informed that the guidance issued on October 28, which had an important bearing on the question of whether to order special treatment of the ballots in question, had been modified. The application received today also informs the Court that neither the applicant nor the Secretary has been able to verify that all boards are complying with the Secretary's guidance, which, it is alleged, is not legally binding on them. I am immediately referring this application to the Conference and direct that any response be filed as soon as possible but, in any event, no later than 2 p.m. tomorrow, November 7, 2020.



AP Images



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The issue stems from new [guidance](#) issued by Democratic Pennsylvania Secretary of State Kathy Boockvar on November 1, 2020, changing the counting of late ballots. Previously, late ballots were to be isolated from the ballots received on time and to remain uncounted. Boockvar's new "guidance" directed poll workers to count all mailed ballots that arrived after 8 p.m. on Election Day but before 5 p.m. on Friday, November 6.

Professor [Ken Homa](#) of Georgetown University had this to say about the new [guidance](#):

IMHO, the GOP case is pretty strong. The Constitution says that state legislatures set the rules for elections, not other government officials or state courts.

The PA legislature's law says that ballots must be received by 8 p.m. on election day.

It can be debated whether that's a good rule ... but, it's the law!

The Dem election officials changed the rules to accept mail-in ballots for the whole week. Their decision was upheld by the PA Supreme Court.

So, the question is a Constitutional one, not vague charges of vote fraud.

Big deal or little deal?

That's unclear.

(1) In yesterday's press conference, the state's chief election official was unable (or unwilling?) to report how many ballots fell into the late-arriving category.

So, could be a lot ... or, could be few. That's a big unknown.

(2) Though PA election officials previously issued rules comparable to Justice Alito's, there are reports that some (many?) PA counties didn't follow the rules — either out of ignorance or defiance.

This could be a very big deal !

First, it's conceivable (but unlikely, IMHO) that here are late enough arriving votes to swing the election results.

Second, what if the SCOTUS rules that the late-arriving votes are, in fact, unconstitutional ... and PA "finds" that counties haven't been segregating the ballots and that there's no way to separate them after-the-fact.

What does the SCOTUS do to remediate that situation?

I see only **2 options**: (1) let all the votes count and tell PA to not to do it again, or (2) disallow all mail-in votes because the pool of votes was irreparably contaminated.

This could get very interesting...

Following Boockvar's [guidance](#) change, the state Republican Party requested the Supreme Court fast-track consideration of the Pennsylvania Supreme Court [ruling](#) that upheld the state's mail-in ballot due-date extension. While Chief Justice Roberts joined the court's three liberals in denying the Republican request, the court's three conservative justices thought otherwise. Justice Alito stated:

It would be highly desirable to issue a ruling on the constitutionality of the State Supreme



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Court's decision before the election. That question has national importance, and there is a strong likelihood that the State Supreme Court decision violates the Federal Constitution.

But, Alito said, there's isn't time "at this late date to decide the question before the election. Although the Court denies the motion to expedite, the petition for certiorari remains before us, and if it is granted, the case can then be decided under a shortened schedule."

As this election unfolds, it becomes clearer that its fate will rest in the hands of lawyers.



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